

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF REQUIRING MEASURING)	
DEVICES & ORDERING WATERMASTER CONTROL)	
OVER ALL GATES, CONTROLLING WORKS AND)	ORDER
OUTLET GATE CONTROLS ON TWENTY-FOUR MILE)	
CREEK WITHIN WATER DISTRICT 29)	
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This matter having come before the Idaho Department of Water Resources (Department) as a result of a request from the watermaster of Water District 29, the Department finds as follows:

FINDINGS OF FACT

1. The rights to the use of the waters of Twenty-Four Mile Creek have been determined by a decree of the District Court of the State of Idaho in the case of Union Grain and Elevator Co. vs. McCammon Ditch Co., et al, dated August 6, 1932.

2. Water District 29, which includes Twenty-Four Mile Creek, is an active water district under the laws of Title 42, Chapter 6, Idaho Code.

3. During low flow periods, the watermaster of Water District 29 must measure the flows diverted from Twenty-Four Mile Creek and regulate all diversions by setting the headgates and/or controlling works.

4. Not all of the diversions from Twenty-Four Mile Creek are equipped with adequate measuring devices, headgates and/or controlling works.

CONCLUSIONS OF LAW

Applicable Legal Principles

Section 42-701, Idaho Code, provides in part:

42-701. Maintenance by appropriators--Procedure upon failure to maintain.--The appropriators or users of any public waters of the state of Idaho

shall maintain to the satisfaction of the department of water resources suitable headgates and controlling works at the point where the water is diverted, which shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point and such appropriator shall construct and maintain, when required by the department, a rating flume or other measuring device at such point as is most practical in such canal or ditch of the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said ditch from the stream. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources: provided, that should any appropriator or user of the public waters of the state of Idaho neglect or refuse to construct or maintain such headgates, controlling works, or measuring devices, upon receiving ten (10) days' notice from the department of water resources within which to begin to remedy such defects as exist in accordance with said notice, then the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water claimed by such appropriator or user until he does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist: provided, that such appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending on the size and extent thereof, when due diligence has been used in the prosecution of such work.

Application of Legal Principles

2. To properly distribute the waters of Twenty-Four Mile Creek, the watermaster must measure flow and have complete control over all headgates and controlling works at all diversions, dams and reservoirs on Twenty-Four Mile Creek.

3. The watermaster has stated that proper measuring devices, headgates and controlling works have not been installed on all diversions from Twenty-Four Mile Creek.

4. Section 42-701, Idaho Code, authorizes the Department to order the installation of measuring devices, headgates and/or controlling works.

ORDER

It is, therefore, hereby ORDERED:

1. That all waterusers diverting water from Twenty-Four Mile Creek shall install measuring devices, headgates and/or controlling works of a type acceptable to the Department on or before June 1, 1990.

2. That the watermaster shall have complete control of all headgates and controlling works at all points of diversion including dams and reservoirs on Twenty-Four Mile Creek.

3. Measuring devices shall be installed and located so that the inflow to and outflow from all reservoirs can be measured in such a manner that natural flow and storage water releases below the reservoirs can be determined.

4. That no water from Twenty-Four Mile Creek shall be delivered by the watermaster of Water District 29 after June 1, 1990 to any diversion that does not have adequate measuring devices, headgates and/or controlling works as determined by the watermaster.

Dated this 6th day of December, 1989.


R. KEITH HIGGINSON
Director

On this 7th day of December, 1989 I caused to be mailed a copy of the order requiring measuring devices & controlling works on 24-Mile Creek along with a copy of the attached cover letter to the following waterusers:

Gary Hatch
Rt. 1, Box 1260
Bancroft, ID 83217

Val Davids
Rt. 1, Box 1330
Bancroft, ID 83217

Wm. Jean Treasure
Rt. 1, Box 1230
Bancroft, ID 83217

R.V. Hansen Ranch
Rt. 1
Bancroft, ID 83217

Rosa Rindlisbaker
Rt. 1, Box 1220
Bancroft, ID 83217

Brent Crump
Rt. 1, Box 1280
Bancroft, ID 83217

Theron Davids
Rt. 1, Box 1320
Bancroft, ID 83217

Lawrence Holbrook
Rt. 1, Box 1140
Bancroft, ID 83217

Floyd Banks
Rt. 1, Box 1340
Bancroft, ID 83217

Joel Davids
Box 176
Bancroft, ID 83217

Bancroft Cemetery
Box 176
Bancroft, ID 83216

Joe Holbrook
21 N. 4th E.
Soda Springs, ID 83276

Paul Davids
Box 715
Lava Hot Springs, ID 83246

Ada Smith
4804 Burlington Dr.
Boise, ID 83704

Sharla R. Curtis
SHARLA R. CURTIS
Clerical Specialist